

### **REMARKS**

Applicant thanks the Examiner for participating in the telephone interviews on December 10, 2009, and March 18, 2010. During the second interview in particular, claim amendments presented herein were discussed in view of the cited prior art. As reflected in the Examiner's Interview Summary, the Examiner indicated Applicant's claims amendments apparently overcome the current rejections (although the Examiner also indicated further search and consideration would be needed).

Claims 1, 2, 5-7, and 9-12 are pending in the application upon entry of this amendment. Amendments to claim 1 include the incorporation of features of original claims 3 and 4, which have been canceled. Claim 8 also has been canceled, and new claims 9-12 have been added. Support for the additional amendments to claim 1 and for new claim 9 may be found in the application at least at paragraphs [0023-0025] and the drawings generally. Support for new claims 10-12 may be found in the application at least at paragraphs [0022, 0034] and Fig. 9. The claim amendments substantively correspond to those discussed during the March 18 interview. Favorable reconsideration of the application is respectfully requested in view of the claim amendments and following remarks.

#### ***I. OATH/DECLARATION***

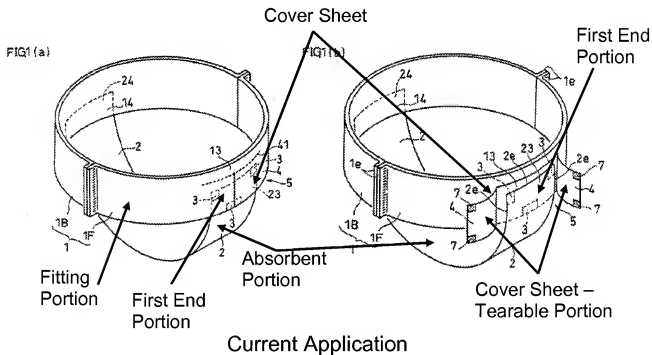
The Examiner objects to the original Oath/Declaration in that the duty of candor portion stated "material to *the* patentability" instead of just "material to patentability". Although Applicant does not necessarily agree with the objection, a new Oath/Declaration is submitted herewith in accordance with the Examiner's comments. The objection, therefore, should be withdrawn.

#### ***II. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103***

##### ***A. Overview of the Claimed Invention***

The claimed invention pertains to absorbent worn articles, such as disposable pants and diapers. The worn article is configured to enhance the ease of checking for soiling as the article is worn, particularly by providing a breakable or tearable portion of

a cover sheet to expose an end of an absorbent portion. The end of the absorbent portion also may be detached from a fitting portion at the area exposed by the tearing of the cover sheet. In addition, during wearing the cover sheet covers the end of the absorbent portion to prevent inadvertent detachment of the absorbent portion. (See, e.g., Application at paragraphs [0004-0005, 0008].) Figs. 1(a) and 1(b) of the application are reproduced below as representative.



As seen in the above figures, the worn article includes an absorbent portion 2 connected to a fitting portion 1. The absorbent portion 2 has a first end portion 23. The first end portion is detachably fastened to the abdominal side of the fitting portion by fasteners 3. A cover sheet 4 covers the region of the absorbent portion 2 that includes the first end portion 23. In particular, the cover sheet in part covers an upper edge of the first end portion in a torso direction. Progressing from Fig. 1(a) to FIG. 1(b), a portion 41 of the cover sheet 4 is breakable to expose the first end portion 23. The breakable portion 41 further may be tearable, such as by half-cutting or forming perforations in the cover sheet 4. In this manner, the absorbent portion easily may be

exposed and examined for soiling by opening the tearable portion of the cover sheet, and the absorbent portion may be removed if needed by detaching the absorbent portion from the fitting portion via the fasteners 3. In addition, the cover sheet easily may be closed via detachable fasteners 7 when, for example, the absorbent portion is not soiled. In the secured position, the cover sheet 4 also prevents an inadvertent detachment of the first end portion 23. (See, e.g., Application at paragraphs [0019-0025].)

Features pertaining to the tearable cover sheet are recited in amended claim 1:

wherein, when the article is worn, the cover sheet is at least partially removable to expose the exterior surface of the first end portion of the absorbent portion to an exterior of the worn article for detaching the absorbent portion from the fitting portion;

a portion of the cover sheet that is covering the first end portion or a vicinity thereof is formed to be tearable.

Amended claim 1 also recites the cover sheet coverage includes in part "an upper edge of the first end portion extending in a torso direction", and a specific layering configuration of the fitting portion, absorbent portion, and cover sheet in the region of the first end portion:

in the touch-fastened first end portion, an inner surface of the absorbent portion is facing the outer surface of the abdominal-side portion of the fitting portion, and an inner surface of the cover sheet is facing an outer surface of the absorbent portion.

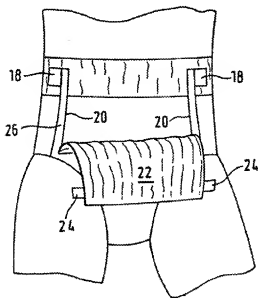
New claim 9 recites features pertaining to the fastening aspects of the tearable portion of the cover sheet. New claims 10-12 recite additional structural features of the first end portion and cover sheet. As further explained below, the references cited by the Examiner do not disclose or suggest such features.

***B. Deficiencies of Roehrl***

Claims 1-8 stand rejected under 35 U.S.C. § 103(a) as being obvious over Ono et al. EP Patent No. 0763353 (Ono) in view of Roehrl et al., U.S. Patent Application Publication No. 2006/0259001 (Roehrl). The Examiner cites to Ono for the basic

features of a conventional absorbent garment. The Examiner recognizes Ono does not disclose or suggest a cover sheet that is at least partially removable to expose an exterior surface of a first end portion of an absorbent. The Examiner, however, relies on Roehrl as disclosing such features. The rejections should be withdrawn for at least the following reasons.

Roehrl discloses a disposable diaper in which a front portion may be opened from the outside. By opening the front portion, a wearer can relieve himself in a "conventional" manner without making use of the diaper. One can also check the diaper for soiling. Fig. 2 of Roehrl is reproduced below as representative.



Roehrl Fig. 2

As seen in the above figure, Roehrl discloses "a middle section 22 of the main diaper portion" can be folded or flapped away. (See Roehrl at paragraph [0039].)

As described in the current application, the absorbent portion 2 includes a top sheet 20, a core 21, and a backsheet 22. (Application at paragraph [0017].) Essentially, therefore, as seen in Figs. 1(a-b) above, the absorbent portion 2 forms the entire protective functional portion of the article. In other words, comparing Applicant's article to the diaper of Roehrl, Applicant's absorbent portion 2 may be considered comparable

to Roehrl's main diaper 8 (see Roehrl Fig. 1), and Applicant's first end portion 23 may be considered comparable to Roehrl's flap 22. ***There is no additional feature in the diaper of Roehrl that can be considered comparable to Applicant's cover sheet 4.***

Roehrl thus apparently discloses detaching an end of the absorbent portion (flap 22), but does not further disclose a tearable cover sheet to expose such end portion. As seen in Roehrl Fig. 2, the detachable portion of the main diaper is already and always exposed to the outside. As stated above, one purpose of the claimed cover sheet is to cover the first end portion to prevent inadvertent detachment of the absorbent portion while the article is worn. In this vein, amended claim 1 recites the cover sheet covers "an outer surface of the absorbent portion". There is no such structure in the diaper of Roehrl that covers an outer surface of flap 22. In particular, there is no cover sheet that in part covers an upper edge of the first end portion in a torso direction. The device of Roehrl further does not disclose or suggest the additional features recited in claims 9 and 10-12 regarding the cover sheet and its configuration relative to the first end portion.

Accordingly, Roehrl does not disclose or suggest the claimed cover sheet ***at all***, nor therefore any of the more specific claim features associated with the claimed cover sheet. A combination of Ono and Roehrl, therefore, does not result in, disclose, or suggest the features of claim 1, and the dependent claims are patentable for at least the same reasons.

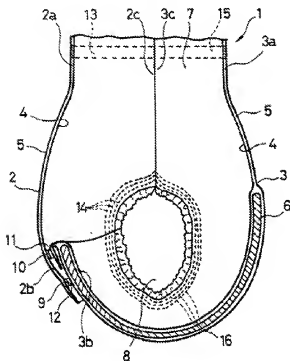
The foregoing presents the basis for patentability of the amended claims as discussed during the March 18 telephone interview, and the Examiner has indicated the amended claims overcome the current rejections. For at least these reasons, the rejections should be withdrawn.

### ***III. DEFICIENCIES OF NEW REFERENCE OBA***

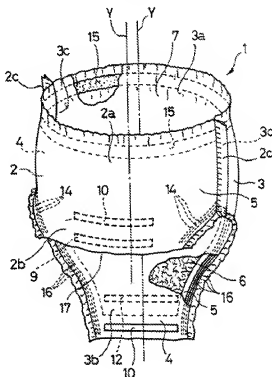
Subsequent to the March 18 interview, the Examiner identified another reference for consideration as a substitute for Roehrl: Oba, U.S. Patent No. 6,752,797 (Oba). Oba has not been cited in an Office Action, and the Examiner indicated he is unsure as to whether he would do so. For convenience, however, in this response Applicant

identifies the distinctions between the diaper of Oba and the claimed invention. Oba Figs. 2 and 3 are reproduced below as representative.

**FIG.2**



**FIG.3**



As seen in the above figures, a portion 2b of an abdominal section 2 of the diaper may be secured in an overlapping manner to a portion 3b of a rear section 3. The rear section 3 includes an absorbent core material 6. In the secured state of Fig. 2, it appears the portion 2b covers at least an end portion of the portion 3b including the absorbent core material 6. It seems, therefore, the Examiner may be considering the portion 2b to be comparable to the claimed cover sheet in that portion 2b covers an end of the absorbent portion 3b/6 in the secured state. Even as interpreted in this manner, the diaper of Oba lacks several features of the claimed invention.

Essentially, claim 1 requires that the pertinent end of the absorbent portion be

fastened between both the cover sheet and the fitting portion. The device of Oba lacks such features because the pertinent end of the absorbent portion 3b/6 is connected only to the purported cover sheet 2b.

Referring to specific language of claim 1, the purported cover sheet 2b of Oba does not have a tearable portion as claimed. Rather, the section 2b detaches entirely from section 3b. There is no distinct tearable portion within the section 2b to expose the section 3b. In addition, claim 1 recites the first end portion of the absorbent portion is detachably fastened to an abdominal side of the *fitting portion*. Viewing section 2b as the purported cover sheet, the purported absorbent portion 3b/6 of Oba is not fastened to any additional structure on the abdominal side as claimed. The device of Oba, therefore, also lacks the claim features that the cover sheet is torn to expose the absorbent portion "for detaching the absorbent portion from the fitting portion". It also follows the diaper of Oba lacks the precise layer structure of the cover sheet, absorbent portion, and fitting portion as recited in the last two paragraphs of claim 1.

Accordingly, Oba does not disclose or suggest several structural features of the claimed invention. A combination of Ono and Oba, therefore, does not result in, disclose, or suggest the claimed invention.

#### **IV. CONCLUSION**

Accordingly, all claims 1, 2, 5-7 and 9-12 are allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.

Should the Examiner feel that a telephone interview would be helpful to facilitate favorable prosecution of the above-identified application, the Examiner is invited to contact the undersigned at the telephone number provided below.

Should a petition for an extension of time be necessary for the timely reply to the outstanding Office Action (or if such a petition has been made and an additional extension is necessary), petition is hereby made and the Commissioner is authorized to charge any fees (including additional claim fees) to Deposit Account No. 18-0988,

Serial No.: 10/596,258

Docket No. YMMRP0105US.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

/Mark D. Saralino/

Mark D. Saralino

Reg. No. 34,243

DATE: April 22, 2010

The Keith Building  
1621 Euclid Avenue  
Nineteenth Floor  
Cleveland, Ohio 44115  
(216) 621-1113